

MINUTES OF THE PLANNING COMMISSION MEETING HELD ON JULY 8, 2014, AT 5:01 P.M. IN THE CITY COUNCIL CHAMBERS, APOPKA, FLORIDA.

MEMBERS PRESENT: Steve Hooks, Melvin Birdsong, Ben Dreiling, James Greene, Teresa Roper, and Robert Ryan

ABSENT: Mallory Walters, Orange County Public Schools (Non-voting)

OTHERS PRESENT: R. Jay Davoll, P.E. – Community Development Director/City Engineer, David Moon, AICP - Planning Manager, Ken Stoltenberg, Holly Swanson, Jimmy Dunn, Jeff Chaffee, Ed Velázquez, John Herbert, P.E., Lisa Hill, Ed Hampden, John Boudreaux, Richard Withers, Scott Kelley, Tom Sullivan, Heather Briggs, Clarence Coston, Chuck Ebersole, Suzanne Kidd, Anthony Raynor, Michael Dinkel, Pam Toler, Richard Simon, and Jeanne Green – Community Development Department Office Manager/Recording Secretary.

OPENING AND INVOCATION: Chairperson Hooks called the meeting to order and asked for a moment of silent meditation. The Pledge of Allegiance followed.

APPROVAL OF MINUTES: Chairperson Hooks asked if there were any corrections or additions to the June 10, 2014 minutes. With no one having any corrections or additions, he asked for a motion to approve the minutes of the Planning Commission meeting held June 10, 2014.

Motion: James Greene made a motion to approve the Planning Commission minutes from the June 10, 2014 meeting, and Teresa Roper seconded the motion. Aye votes were cast by Steve Hooks, Melvin Birdsong, Ben Dreiling, James Greene, Teresa Roper, and Robert Ryan (6-0).

AMENDMENT TO THE CODE OF ORDINANCES, PART III, LAND DEVELOPMENT CODE, ARTICLE III – OVERLAY DISTRICTS – David Moon, AICP, Planning Manager, stated there is new language and revisions made based on the discussion at the Planning Commission workshop.

The first new language included is in Section 3.04.06.6 - Development Standards that reads “Alleyways. All alleyways shall be placed within a separate tract owned by a homeowners association...” This amendment was to clarify the alley location so that a developer could not put the alley in an easement and then claim it as part of the lot area.

The second new language appears in Section 3.04.06.14 - Development Standards that reads “Any portion of a vehicle parked within a driveway shall not extend into an area of an alley, street, sidewalk, or public right-of-way. Vehicles parked within a driveway located on a residential lot shall be oriented perpendicular to the street with the front or back of the vehicle facing a garage door. This regulation shall also be incorporated into the homeowners’ association code, covenant and restriction document.” This amendment was added based on the site visits conducted by the Planning Commission members and concerns expressed about cars parking across the driveway or angled in the driveway to fit in the driveway. This language clarifies that issue and help to prevent it from occurring.

He asked for clarification on the following two sections:

Section 3.04.06 - Development Standards

10. Garage Setbacks

- b. Townhomes.
Front-entry or side-entry garage is not allowed.

- 2.) Rear-entry garage (as measured from the rear property line):

MINUTES OF THE PLANNING COMMISSION MEETING HELD ON July 8, 2014, AT 5:01 P.M.

- (a) Garage placed ten or fewer feet from rear property line: minimum of five (5) feet.
- (b) Garage placed more than ten feet from rear property line: minimum of twenty-two (22) feet.

Mr. Moon stated that he received a comment that the minimum of twenty-two feet was to only apply to single family homes and duplexes but not townhomes. Townhomes would only be subject to the ten foot (10) foot minimum setback if accessed from an alley.

Chairperson Hooks stated that the intent of that was to keep the driveways long enough for the largest standard vehicle that is being sold today. If it didn't fit then the driveway has got to be ten (10) foot or less so it would not fit and then the new section 3.04.06.14 would apply.

In response to a question by Chairperson Hooks, Mr. Moon stated that for single family homes and duplexes they do not have the ten foot driveway option as with the townhomes. Their rear entry garage setback is a minimum of 22 feet. For townhomes, there are two options for the rear entry garage. One is the garage is placed ten or fewer feet from the rear property line then the garage setback is a minimum of five feet and a maximum of ten feet. If the garage is placed more than ten feet from the property line then it has to be setback a minimum of 22 feet similar to a single family home.

Chairperson Hooks stated that was the intent.

Mr. Moon stated the second point needing clarification is:

Section 3.04.08 – Architectural Appearance and Building Design

1. Minimum Residential Livable Area. No less than seventy-five percent (75%) of all dwelling units, regardless of residential type, shall have a minimum livable area of 1,700 square feet or greater. No more than twenty-five percent (25%) of single family and duplex dwelling units shall have a livable area less than 1,700 square feet. The minimum livable area of single family home or duplex unit shall not be less than 1,500 square feet, and not less than 1,350 square feet for a townhome unit.

Mr. Moon stated that the language states that no less than 75% of all dwelling units, regardless of residential type, shall have a minimum livable area of 1,700 square feet or greater. He said that it was brought to his attention that the 75% requirement only applied to single family homes and that townhomes are not included as part of that 75%.

Chairperson Hooks said he believed the intent was that the minimum living area of 1,700 square feet applied to single family homes because we did not want a lot of real small homes. Townhomes is a different product.

The Commission agreed that the intent was that the 1,700 square foot minimum living area applied only to single family lots.

Motion: Ben Dreiling made a motion to recommend approval of the amendment to Section 3.04.08.1 be changed to “No less than seventy-five percent (75%) of all single family dwelling units; ~~regardless of residential type~~, shall have a minimum livable area of 1,700 square feet or greater.”, and Teresa Roper seconded the motion. Aye votes were cast by Steve Hooks, Melvin Birdsong, Ben Dreiling, James Greene, Teresa Roper, and Robert Ryan (6-0).

MINUTES OF THE PLANNING COMMISSION MEETING HELD ON July 8, 2014, AT 5:01 P.M.

Mr. Moon stated that staff recommends acceptance of the points identified in the draft language and acceptance of the Small Lot Overlay Zoning District language.

Chairperson Hooks stated that typically when referring to the local post office you would say the Local Post Master. He requested that in Section 3.04.07.6 of the Design Guidelines, that the two references to the local U.S. Postal Service Office be changed to the local Post Master.

Mr. Moon stated that will be considered a scriveners' error and a motion will not be required.

Chairperson Hooks stated that with regard to Section 3.04.11 – Maintenance and Community Management, the intent was for the City to have some authority in this document to force the homeowners association to comply with what is in their homeowners' documents when they are incorporated. He asked if staff had a chance to speak with the new City attorney regarding this section.

Mr. Moon stated that since the new attorney has just this week signed a contract, he had not had an opportunity to bring this question to his attention. Based on the request of the Planning Commission he will get with the prior to the amendment going to City Council.

Chairperson Hooks stated that when you typically refer to the local post office you would be referring to the local post master. He suggested that Section 3.04.07.7 - Design Guidelines be revised to change the two local post office references to the local post master.

In response to questions by Chairperson Hooks, Mr. Moon stated that would be a scrivener's error and would not require a motion. He stated that since the new City Attorney was just hired, he had not had a chance to speak with him about Section 3.04.11 – Maintenance and Community Management. He assured the Commission that prior to this being taken to City Council he would ask the City Attorney to review that section to ensure the City would be able to hold the homeowners association accountable for the maintenance of the property.

In response to a question by Mr. Moon, Chairman Hooks stated that the Commission did not have a problem with staff moving forward with the ordinance so long as the City Attorney had a chance to review Section 3.04.11 prior to presentation to the City Council.

Chairperson Hooks opened the meeting for public hearing.

In response to a suggestion by Suzanne Kidd, Mr. Moon stated that by changing the language in Section 3.04.07.7 - Design Guidelines from "uniform" to "identical" could create problems in the future for the property owner or homeowners association. In the future, it may prove difficult to find an identical mailbox because it is no longer available. Whereas there is flexibility with the word "uniform" because a similar mailbox could be used.

In response to questions by Chairperson Hooks, Mr. Moon stated that the developer would be required to include mailboxes in the final development plan. They would present a detail of the mailbox as part of the application package.

Mr. Greene stated that language could be included in the homeowners' association covenants, restrictions, and codes, as is included in the Rock Springs Ridge HOA documents, that requires the property owner to be responsible for replacing the mailbox and ensuring it is uniform.

MINUTES OF THE PLANNING COMMISSION MEETING HELD ON July 8, 2014, AT 5:01 P.M.

Ms. Roper stated that identical would require a “like to like” mailbox which could be difficult to obtain in the future; whereas uniform would be one that is as similar to the previous mailbox as possible.

Ed Hampden, Tallman Development Company, 604 S. Lake Sybelia Drive, Maitland, suggested clarifying Section 3.04.06. - Development Standards - Housing Types and Mix regarding the percentage of 50 foot wide lots as follows: “..., at least one-half (½) of the single family/duplex lots shall have a minimum width equal to or greater than fifty (50) feet.” He stated that without this change this section could conceivably be construed to mean townhomes as well and that will throw the overall mix of small lots out of proportion.

In response to a question by Chairperson Hooks, Mr. Moon stated that it would be repetitive but would not change or hurt the section.

Motion: Ben Dreiling made a motion to recommend approval of the amendment to Section 3.04.06.3 - Development Standards - Housing Types and Mix as follows: “..., at least one-half (½) of the single family and/or duplex lots shall have a minimum width equal to or greater than fifty (50) feet.”, and James Greene seconded the motion. Aye votes were cast by Steve Hooks, Melvin Birdsong, Ben Dreiling, James Greene, Teresa Roper, and Robert Ryan (6-0).

With no one else wishing to speak, Chairperson Hooks closed the public hearing.

Motion: James Greene made a motion to recommend approval of the amendment to the City of Apopka Code of Ordinances, Part III, Land Development Code, Article III – Overlay Zones to add Section 3.04.00 - Small Lot Overlay Zoning District, and Teresa Roper seconded the motion. Aye votes were cast by Steve Hooks, Melvin Birdsong, Ben Dreiling, James Greene, Teresa Roper, and Robert Ryan (6-0).

COMPREHENSIVE PLAN - LARGE SCALE – FUTURE LAND USE AMENDMENT – APOPKA CLEAR LAKE INVESTMENTS, LLC – AVIAN POINTE – Mr. Moon stated this is a request to recommend approval of the Large Scale Future Land Use amendment from Residential Low (0-5 du/ac) to Residential Medium (0-10 du/ac) for the property owned by Apopka Clear Lake Investments LLC, c/o Ken Stoltenberg. The engineering firm is Hendra & Associates, c/o Eric J. Hendra, P.E. The property is located east of S.R. 429, south of Peterson Road, and north of Lust Road. The existing use is vacant land and the proposed use is Avian Pointe, a residential community with a mix of single-family homes, apartments, and townhomes with residential amenities. The existing maximum allowable development is 454 units and the proposed future land use would allow a maximum allowable development of 948 Units. The tract size is 94.76 acres. The staff report and its findings are to be incorporated into and made a part of the minutes.

Mr. Moon stated that Parcel No. 07-21-28-0000-00-002 (89.47 +/- acres) was annexed into the City of Apopka on December 17, 1997, through the adoption of Ordinance No. 1129; and Parcel No. 07-21-28-0000-00-023 (5.29 +/- acres) was annexed into the City of Apopka on January 7, 2004, through the adoption of Ordinance No. 1621.

The applicant requests to assign a Residential Medium Density Future Land Use Designation to the two above referenced parcels totaling approximately 94.76 acres. An application has also been submitted to the City requesting a zoning category of Planned Unit Development for these same two parcels as well as the parcel abutting the northwest corner of the subject property. This third parcel, owned by W.D. Long Family Farms et.al, is not part of the future land use amendment application and will retain its Residential Low Density Residential Land Use Designation.

MINUTES OF THE PLANNING COMMISSION MEETING HELD ON July 8, 2014, AT 5:01 P.M.

After the Future Land Use Amendment for the 94.57 acres has been transmitted to and reviewed by the Florida Department of Economic Opportunities and other state agencies for their review, the applicant will request a Planning Unit Development zoning and master site plan approval for the two parcels owned by Apopka Clear Lake Investment and the one parcel owned by W.D. Long Family Farms et.al.

The intent of the applicant, Apopka Clear Lake Investments, is to develop a residential community with a mix of single-family homes, apartments, and townhomes with residential amenities that include a bike trail that allows for connection to the Lake Apopka Loop Trail, community resort-style clubhouse and swimming pools, and a parks and open space system. In addition, the applicant desires to reserve a small area of the master site plan for flexible use zone that can accommodate one or more of the following uses: school or day care, boutique hotel, or a senior residential housing (such as an assisted living facility or age-restricted housing).

The applicant will present a proposed PUD master site plan for all three parcels at the transmittal hearing. This master site plan is currently under review by the Development Review Committee. Between the transmittal hearing and the final adoption hearing for the Future Land Use Amendment, the applicant will finalize the master site plan for zoning hearings. At the time the adoption hearing is held, the PUD zoning and master site plan will appear on the same hearing as the future land use amendment.

In conjunction with state requirements, staff has analyzed the proposed amendment for Medium and determined that adequate public facilities exist to support this land use change as depicted in the Land Use Report.

After the transmittal hearing, the applicant will submit to Orange County Public School an application for school capacity determination. Prior to the adoption hearing for the Future Land Use amendment, the applicant must obtain an approved school capacity determination or school capacity mitigation agreement from the Orange County School Board.

The JPA requires the City to notify the County 30 days before any public hearing or advisory board. The City properly notified Orange County on June 10, 2014.

The Development Review Committee recommends approval to transmit a change in Future Land Use from Residential Low (0-5 du/ac) for approximately 89.47 acres and Agriculture for approximately 5.29 acres to Residential Medium Density (0-10 du/ac) for the property owned by Apopka Clear Lake Investments LLC, c/o Ken Stoltenberg, subject to the information and findings in the staff report.

This item is considered quasi-judicial. The staff report and its findings are to be incorporated into and made a part of the minutes of this meeting.

In response to questions by Mr. Dreiling, Mr. Moon stated that Peterson Road is a substandard right-of-way because of the corner in the road. The road bends but it appears that a part of the pavement may actually be on private property because the right-of-way is square and the road curves. At the present time the City has no plans in its five-year scheduled capital improvements to construct Peterson Road or a road from Peterson Road south to this property or to improve the road from Peterson north to West Orange Avenue. The City is not responsible for the construction of that roadway because it is not in the five-year scheduled capital improvements plan. That is the reason that staff is recommending a developer's agreement between the City and the developer be established prior to the final hearing on the medium density land use. That development agreement would obligate the developer to construct or reconstruct that roadway to the north to West Orange Avenue without a burden to the City. They are obligated to pay transportation impact fees. Some or all of the road improvements may qualify for credits towards those impact fees. The impact fees may or may not pay for all the road improvements but it would be the developer's responsibility to cover the difference. The impact fees come to the City.

MINUTES OF THE PLANNING COMMISSION MEETING HELD ON July 8, 2014, AT 5:01 P.M.

Tom Sullivan, Esq., Gray Robinson Law Firm, 301 East Pine Street, Suite 1400, Orlando, stated he was the representative for Apopka Clear Lake Investments, LLC. He introduced Ken Stoltenberg of Apopka Clear Lake Investments LLC and Holly Swanson the architect. He presented a PowerPoint of the proposed Avian Pointe development and the possible amenities that could be provided.

Mr. Sullivan stated that the applicant will be pursuing a developer's agreement with the City for access to the north of the site up to West Orange Avenue.

Chairperson Hooks opened the meeting for public hearing.

Richard Withers, 2436 Wyndam Bay Place, Apopka, expressed concerns and opposition to the proposed high density development. He stated that he and the other residents in the area purchased their homes in that area because it was quiet. He stated that the land use and zoning should stay as it is and that only single family homes be built on the property with comparable density, setbacks, and buffer requirements as are found in Clear Lake and Lake Heiniger Estates.

In response to a question by Chairperson Hooks, Mr. Withers stated that he was not representing the homeowners association but that they would be getting involved as this project goes along.

Chairperson Hooks stated that based on Mr. Sullivan's presentation the number of units being proposed for the site is an increase of only 248 units from what the applicant would be allowed to develop.

In response to questions by John Boudreaux, 2529 Wyndam Bay Place, Apopka, Chairperson Hooks stated that the Lust Grant property is not being included in the future land use amendment. That part of the site has already been approved as low density for single family residences. The developer has increased the side yard setbacks from 5 feet to 7.5 feet. It will be a part of the entire development.

Richard Simon, 62 Sedona Cove Drive, Apopka, stated that he agreed with the same concerns and oppositions that Mr. Withers presented.

With no one else wishing to speak, Chairperson Hooks closed the public hearing.

Mr. Moon stated the schedule for the large scale future land use amendment is as follows: On August 6, 2014 the ordinance will go to the City Council for first reading and a request to authorize transmittal to the Department of Economic Opportunity and several other state agencies for their review. The state will have sixty (60) days to review the item. Once a response is received, the City then has 180 days to adopt the amendment. At the time the large scale future land use amendment is adopted, the zoning ordinance, with the master plan, will be presented to the City Council for adoption.

Motion: Ben Dreiling made a motion to recommend approval of the Avian Pointe Large Scale Future Land Use Amendment from Residential Low (0-5 du/ac) to Residential Medium (0-10 du/ac) Agricultural Homestead (1 du/10 ac) to Conservation (1 du/20 ac) for property owned by Apopka Clear Lake Investments, LLC, subject to the Future Land Use Amendment being brought back to the Planning Commission prior to adoption by the City Council when the Change of Zoning and Master Site Plan are presented, and the information and findings in the staff report, and Melvin Birdsong seconded the motion. Aye votes were cast by Steve Hooks, Melvin Birdsong, Ben Dreiling, James Greene, Teresa Roper, and Robert Ryan (6-0).

In response to questions by Mr. Withers, Chairperson Hooks stated the Planning Commission makes a recommendation to the City Council that they should send it up for review. The City Council does not have to

MINUTES OF THE PLANNING COMMISSION MEETING HELD ON July 8, 2014, AT 5:01 P.M.

take the recommended action. This item will be presented to the City Council on their regularly scheduled meeting on August 6, 2014 at 1:30 p.m. in the Council Chambers. If the Council accepts the first reading and authorizes the transmittal of the large scale future land use amendment, staff will transmit the amendment to the staff for their review. The state has 60 days to review the proposed amendment. The Planning Commission has included in their motion to recommend transmittal of the amendment the request that the future land use change come back to the Commission with the zoning and the master plan/preliminary development plan. The City will be obliged to return it to the Planning Commission. He stated that the concerns regarding buffers and setbacks should be brought up at the time of the change of zoning/Master Plan is presented to the Commission.

In response to a question by Pam Toler, 2084 Tournament Drive, Apopka, Mr. Moon stated that an environmental study will be required as a part of the site plan submittal.

CHANGE IN ZONING/MASTER SITE PLAN/PRELIMINARY DEVELOPMENT PLAN – RAYNOR SHINE RECYCLING SOLUTIONS, LLC – Mr. Moon stated this is a request to recommend approval of the Change in Zoning from “County” I-4 (ZIP) and “City” I-1 to “City” Planned Unit Development (PUD/I-2) for the property owned by Raynor Apopka Land Management, LLC. The applicant/engineering firm is American Civil Engineering Co., c/o John Herbert, P.E. The property is located at 100 & 126 Hermit Smith Road (southern terminus of Hermit Smith Road). The existing use is Vacant Land, warehouse, office and the proposed use is a mulch operation. The current zoning is. The tract size is 19.4 +/- acres. The existing maximum allowable development is 507,038 sq. ft. and the proposed maximum allowable development is 507,038 sq. ft. The staff report and its findings are to be incorporated into and made a part of the minutes.

Mr. Moon stated Parcel No. 01-21-27-0000-00-026 (15.25 +/- acres) was annexed into the City of Apopka on November 1, 2006, through the adoption of Ordinance No. 1877. Parcel No. 01-21-27-0000-00-080 (4.15 +/- acres) was annexed into the City of Apopka on February 2, 2005, through the adoption of Ordinance No. 1733. The proposed Change of Zoning is being requested by the applicant, Raynor Apopka Land Management, LLC.

The zoning application covers approximately 19.4 +/- acres. The property owner intends to use the site for a mulch production manufacturing operation. This use involves the following activities: heavy outdoor mulching equipment, outdoor storage of raw materials, large trucks entering and leaving the property with raw materials (removed or harvested trees or tree limbs) or finished product (landscape mulch). An office use will occur at the site for on-site management of operations and for business sales. The office use is ancillary to the mulch production operation. Based on the storage of outdoor raw material as well as a manufacturing operation that does not occur within an enclosed building, the proposed use meets the intent of the I-2 zoning category. Both parcels have been acquired by and under legal ownership of the applicant. The smaller of the two parcels, Parcel Number 01-21-27-0000-00-080, is approximately 4.15 acres has not been assigned a City zoning category but currently retains a County zoning category of I-4 Industrial. The County’s I-4 zoning category is similar to the City’s I-2 zoning category. The larger parcel, Parcel Number 01-21-27-0000-00-026, is approximately 15.25 acres and has a City I-1 zoning assigned to it. The proposed use does not meet the intent of the I-1 zoning category and requires I-2 zoning.

The applicant originally sought I-2 zoning for the subject property. However, the City’s planning staff determined that many of the uses proposed under I-2 zoning are too intensive considering the predominant land uses in the surrounding area are zoned for I-1, conservation, or agriculture. However, the mulch production use, as proposed, is a use that planning staff considers to be compatible with the surrounding area. Taking into consideration the opinion of the Planning staff, the applicant agreed to apply for a PUD zoning that will limit the use of the subject property to only the mulch production operation and any related ancillary uses, as well as any I-1 uses currently allowed.

MINUTES OF THE PLANNING COMMISSION MEETING HELD ON July 8, 2014, AT 5:01 P.M.

In conjunction with state requirements, staff has analyzed the proposed amendment and determined that adequate public facilities exist to support this change of zoning as depicted in the Zoning Report.

The PUD recommendations are that the zoning classification of the following described property be designated as Planned Unit Development (PUD\I-2), as defined in the Apopka Land Development Code, and with the following Master Plan provisions are subject to the following zoning provisions:

- A. The zoning and uses permitted within the PUD district for the subject property shall be:
1. Use of the subject property will be limited to the manufacturing and production of mulch with outdoor storage of raw materials and with outdoor manufacturing operations. All outdoor storage and outdoor manufacturing operations shall be located within a screened area not visible from adjacent properties or streets. Outdoor mulch manufacturing and the outdoor storage of raw materials are the only I-2 uses that are allowed.
 2. Any I-1 or C-3 permitted use is allowed.
 3. C-2, C-1, CN, or PO/I permitted uses will not be allowed as a primary use. Any office use shall be associated with the industrial activity occurring at the subject site.
 4. Any use of the property other than the permitted uses described above, shall require an amendment to the PUD through the zoning process.
 5. Overnight parking of trucks or other large vehicles shall only occur within the boundaries of the Master Site Plan and within areas so designated on said Plan. No overnight parking of trucks will be allowed within the office parking lots. No parking of any vehicle will occur within any roadway easement running within the subject property or abutting the eastern property line.
 6. Outdoor storage of raw materials shall only occur at approved locations denoted within the Master Site Plan.
 7. All mulching equipment shall only be placed in the areas denoted on the Master Site Plan.
 8. No parking of any vehicle or truck or outdoor storage shall occur within any landscape buffer area appearing on the Master Site Plan.
- B. Development standards and conditions required of any development the PUD district for the subject property shall be:

Building elevations will be provided at time of a Final Development Plan application.

1. Prior to commencing any development or construction activity at the subject property, a development agreement shall be approved by the City and recorded to require dedication of the eastern ten-feet of the subject property to the City of Apopka within thirty-days from the date that the property owner receives written notification from the city engineer.
2. Maximum height of any building, mulch conveyor belts, manufacturing equipment, raw material piles are not to exceed thirty-five feet from the finished ground level.

MINUTES OF THE PLANNING COMMISSION MEETING HELD ON July 8, 2014, AT 5:01 P.M.

3. All perimeter landscape areas shall be protected from vehicle encroachment by curbing or wheel stops.
- C. If a Final Development Plan associated with the PUD district has not been approved by the City within two years after approval of these Master Plan provisions, the approval of the Master Plan provisions will expire. At such time, the City Council may:
1. Permit a single six-month extension for submittal of the required Preliminary Development Plan;
 2. Allow the PUD zoning designation to remain on the property pending resubmittal of new Master Plan provisions and any conditions of approval; or
 3. Rezone the property to a more appropriate zoning classification.
 4. Unless otherwise addressed within the PUD development standards, the I-1 zoning standards will apply to the subject property.

The proposed Planned Unit Development (PUD/I-2) zoning designation is consistent with the Industrial (0.60 FAR) future land use designation and the proposed use of the property. Site development cannot exceed the intensity allowed by the Future Land Use policies.

Because this change of zoning represents a change to a non-residential designation, notification of Orange County Public Schools is not required.

The JPA requires the City to notify the County 30 days before any public hearing or advisory board. The City properly notified Orange County on June 11, 2014.

The applicant proposed the following waiver requests. These waivers are provided for information purposes. As the applicant as applied for a PUD zoning, these waivers will be listed as Development Standards approved for the subject property. Thus, the below waivers are considered to be additional development standards that will be incorporated in the PUD ordinance.

1. LDC, Section 2.02.16. G.1. - Areas adjacent to all road rights-of-way shall provide eight (8) foot masonry wall within a minimum 25-foot landscaped bufferyard. Applicant is requesting a waiver to allow a 10-foot landscaped bufferyard due to the adjacent property being zoned I-1 and for security purposes.

In response to questions by Mr. Dreiling, Mr. Moon stated that a public right of way is owned and managed by the local government and in this case, that would be the City of Apopka. A private easement, or private road, is owned by the property owners that benefit from the easement and then the easement is granted to others to travel upon it. Besides travel it could be used for the right to have water and sewer lines travel through it. The City does have easement rights for water and sewer line that run through a portion of the adjacent property.

In response to a question by Chairperson Hooks, Mr. Moon stated that Raynor Shine does not have access to the Hermit Smith Road public right-of-way. They have provided easement documents that show they have rights to use the 40 foot easement on the Boughan Brothers property. Their attorney prepared a document and submitted it to DRC for its review to demonstrate they had the right to use that easement.

MINUTES OF THE PLANNING COMMISSION MEETING HELD ON July 8, 2014, AT 5:01 P.M.

Mr. Moon stated that staff's intention was initially to have a public right-of-way from the north end of the property down to the south end. This applicant has committed to deed or dedicate a ten foot right-of-way easement along the eastern boundary of their property. If the City notifies the Boughan Brothers that it intends to convert that 40 foot easement into a public right-of-way. Then the City Engineer can contact them and request they deed that 10 foot easement to the City to create a 50 foot right-of-way.

In response to questions by Mr. Dreiling, Mr. Moon stated the easement from staff's interpretation of the material provided addresses rights for the Raynor Shine property owner to travel upon that easement. He said the owner to the south of that easement has not demonstrated the right to use that easement. Additionally, in conversations with the Boughan Brothers, they did not object to this project as long as that 40 foot easement remains a private roadway. They have security issues and if the easement stays private, they have more control over who drives upon their property. As the area grows there will be more people and that will provide better security for their business. He stated that currently the owners of the property to the south might be using the easement to access their property. He did not know if they had legal access to Hermit Smith Road.

2. LDC, Section 2.02.16. G.2. - Areas adjacent to agricultural districts shall provide an eight-foot masonry wall within a minimum of ten-foot landscaped bufferyard. Applicant is requesting a waiver to allow a 10-foot landscaped bufferyard with a 6-foot chain link fence. The justifications for the request is due to the property to the west containing vegetation from a fern growing operating that blocks the view; and the property to the north is a citrus grove with a dense 6-foot hedge.
3. LDC, Section 2.02.16. G.3. - Areas adjacent to residential districts shall provide an eight-foot masonry wall within a minimum of 50-foot landscaped bufferyard. Applicant is requesting a waiver to allow a 30-foot buffer with a 6-foot chain link along the property line to the north because the adjacent land is owned by the Applicant and is intended to be rezoning to I-1. Additionally, the Applicant is requesting a waiver to allow a 20-foot buffer along the southern property line because the adjacent property is a borrow pit that is not conducive to residential use.

Mr. Dreiling expressed his concerns with approving a variance regarding buffers along the southern property line without knowing what that property owners' intent is for that property. He said that it appears that only 25% of the property to the south belongs to St. John River Water Management District. Additionally, it expressed concern with regard to the proposed radial stackers with large piles and they are looking for a variance against something that is residential abutting it.

In response to a question by Chairperson Hooks, Mr. Moon stated that the property to the south was re-contoured and does not constitute a borrow pit because they only skim off the surface so that it remains developable. With regard to the language in the staff report that states: "Additionally, the Applicant is requesting a waiver to allow a 20-foot buffer along the southern property line because the adjacent property is a borrow pit that is not conducive to residential use. Staff does not object to any of the waiver requests," Mr. Moon stated that it was his opinion is that the area is industrial. There is an airport that is likely going to be expanded. It is right under the flight path. It's unattractive for residential development.

In response to a question by Chairperson Hooks, Jimmy Dunn, June Engineering Consultants, Inc., 14 S. Main Street, Winter Garden, stated that he presents the owner of the property to the south of Raynor Shine.

Staff does not object to any of the above waiver requests and will incorporate these waivers as development standards within the PUD zoning ordinance.

MINUTES OF THE PLANNING COMMISSION MEETING HELD ON July 8, 2014, AT 5:01 P.M.

Mr. Dreiling stated that he does not have a problem with what is planned for the subject property or the zoning. He was concerned with the variances being requested that are going with the zoning. Its right in the trucking corridor, he said his question is a variance is requested for residential next to a property that could be industrial but is currently zoned residential.

Mr. Moon said the buffer that would be required is 30 feet to accommodate their plan, they have asked for a 10 foot variance. Although the property owner to the south has a right to development the property as residential, they also have the right to development the property as industrial or commercial. Based on the access issues to this site as well as the industrial character of this property, his opinion is that the site is unattractive for residential development in the future.

Mr. Dreiling continued to express his concerns about the variances because staff did not know what the intent of the property owner to the south was planning for that property and not requiring a public right-of-way so that Raynor Shine and the property to the south could have legal access.

The Development Review Committee finds the proposed amendment consistent with the Comprehensive Plan and recommends approval of the change in zoning from "County" I-4 (ZIP) and "City" I-1 to "City" Planned Unit Development (PUD/I-2); and finds the proposed Master Site Plan\ Preliminary Development Plan to be consistent with the Comprehensive Plan and Land Development Code, and recommends approval of the Master Site Plan\ preliminary Development Plan subject to the development standards and conditions recommended in the staff report, for the property owned by Raynor Apopka Land Management, LLC.

Staff recommends that the Planning Commission address separate actions for the PUD\I-2 zoning and another for the Master Site Plan\ Preliminary Development Plan. This item is considered quasi-judicial.

John Herbert, American Civil Engineering Company, 207 North Moss Road, Suite 211, Winter Springs, introduced Mike Dinkel, the partner of Tony Raynor, of Raynor Shine Recycling Solutions, LLC. He asked that they would like to request flexibility in the phasing plan. He said that, if possible, they would like to be able to develop as the market allows. The other item was that the buffer request to the south of their property is being requested is because that property is approximately 30 feet below the Raynor Shine property with a slope. If they put in a fence and some shrubs with the slope their property will not be seen. He said that they concur with staff's recommendations.

Chairperson Hooks opened the meeting for public hearing.

Mr. Dunn stated that he represents Eagles Landing and Ocoee, Inc. He stated that his client intends to fully develop the site. They have other areas of excavation in Hillsborough County that they are developing and one of their business models is to re-contour, leave the land usable, and then develop the property at a later date. He said that in speaking with staff his client sees that area as an industrial area and would like to probably pursue industrial zoning for the property. He stated that their biggest concern, which they had just become aware of, was that in looking back at their title opinions they discovered a 30 foot right-of-way on the western boundary of the property. He provided a copy to staff just prior to the start of the meeting so they have not had a chance to review it. He said access to their property is a concern. They would like for that to be looked at and addressed prior to moving forward to City Council.

In response to questions by Chairperson Hooks, Mr. Dunn stated that he believes that his client's preference is to take the whole property to industrial zoning. The buffer waiver being requested should not be a problem.

MINUTES OF THE PLANNING COMMISSION MEETING HELD ON July 8, 2014, AT 5:01 P.M.

Mr. Davoll stated the Raynor Shine applicant submitted documents from the Boughan Brothers on easements and Mr. Dunn has dropped of a survey with a couple of documents that were recorded in the early 1970s that staff has not had an opportunity to look at. Those documents indicate a 30 foot easement/right-of-way.

In response to a question by Chairperson Hooks, Mr. Davoll stated that a legal description without a map attached to it will have to be traced and too difficult to do during the meeting. He said he will have to trace it out according to the corners.

In response to questions by Mr. Moon, Mr. Dunn stated that this was discovered at 4:00 p.m. this afternoon and looking back at title opinions and surveys done in 2010, the surveyor, who he got to speak with briefly, reiterated his confidence that there is a 30 foot right-of-way on the eastern boundary of the property line. He said that they want it looked into with the surveyor and the City on establishing a right-of-way from Hermit Smith Road.

In response to a question by Chairperson Hooks, Mr. Dunn agreed that when they development their land they either need an agreement with the Boughan Brothers to allow access to the property, assuming at that time it is not public right-of-way, or they need the City to take property and development Hermit Smith Road to have access to their property.

With no one else wishing to speak, Chairperson Hooks closed the public hearing.

In response to questions by Mr. Dreiling, Mr. Davoll clarified that the Boughan Brothers have agreed to allow the applicant to use the 40 foot easement on their property for access and the applicant has agreed to dedicate 10 feet on their property to create a 50 foot public right-of-way to extend Hermit Smith Road. He said that the site plan will not be taken to City Council until the access issues are resolved.

Mr. Moon stated that if it is determined that a 30 foot right-of-way occurs on the eastern edge of the southern property then the plans would require substantial modification which would warrant it's return back to the Planning Commission.

Motion: Ben Dreiling made a motion to recommend approval of the Change of Zoning from “County” I-4 (ZIP) and “City” C-1 to “City” Planned Unit Development (PUD/I-2); the following waivers: [1] LDC, Section 2.02.16. G.1. - Areas adjacent to all road rights-of-way shall provide eight (8) foot masonry wall within a minimum 25-foot landscaped bufferyard to allow a 10-foot landscaped bufferyard due to the adjacent property being zoned I-1 and for security purposes; [2] LDC, Section 2.02.16. G.2. - Areas adjacent to agricultural districts shall provide an eight-foot masonry wall within a minimum of ten-foot landscaped bufferyard to allow a 10-foot landscaped bufferyard with a 6-foot chain link fence; and [3] LDC, Section 2.02.16. G.3. - Areas adjacent to residential districts shall provide an eight-foot masonry wall within a minimum of 50-foot landscaped bufferyard to allow a 30-foot buffer with a 6-foot chain link along the property line to the north and to allow a 20-foot buffer along the southern property line because the adjacent property is a borrow pit that is not conducive to residential use, for property owned by Raynor Apopka Land Management, LLC; and subject to the information and findings in the staff report, and James Greene seconded the motion. Aye votes were cast by Steve Hooks, Melvin Birdsong, Ben Dreiling, James Greene, Teresa Roper, and Robert Ryan (6-0).

MINUTES OF THE PLANNING COMMISSION MEETING HELD ON July 8, 2014, AT 5:01 P.M.

Motion: Ben Dreiling made a motion to recommend approval of the Raynor Shine Recycling Solutions, LLC Master Site Plan/Preliminary Development Plan, for property owned by Raynor Apopka Land Management, LLC, subject to [1] clarification of the 30 foot right-of-way on the eastern portion of the property to the south being resolved prior to it going to the City Council; [2] if the 30 foot right-of-way does exist, the Master Site Plan/Preliminary Development Plan is to be brought back to the Planning Commission for review due to possible inconsistencies with the Land Development Code; and [3] the information and findings in the staff report. Melvin Birdsong seconded the motion.

In response to a question by Mr. Herbert, the Commission had no objections to the requested phase jumping.

Aye votes were cast by Steve Hooks, Melvin Birdsong, Ben Dreiling, James Greene, Teresa Roper, and Robert Ryan (6-0).

FINAL DEVELOPMENT PLAN – LADYBIRD ACADEMY OF APOPKA – Jay Davoll, P.E., Community Development Director/City Engineer, stated this is a request to recommend approval of the Final Development Plan for the Ladybird Academy of Apopka. The owner is Marshall Howard. The engineering firm/applicant is Fragomeni Engineering, Inc., c/o Sherry Fragomeni, P.E. The property is located at 1151 Rock Springs Road (east of Rock Springs Road, south of Welch Road). The existing use is vacant land and the proposed use is a child daycare center. The future land use is Commercial and the zoning is C-1. The tract size is 4.45 +/- acres. The proposed building size is 13, 388 sq. ft. The staff report and its findings are to be incorporated into and made a part of the minutes of this meeting.

The Ladybird Academy of Apopka Final Development Plan proposes a 13,388 square foot child daycare facility.

Stormwater run-off and drainage will be accommodated by on-site wet retention pond. The applicant is requesting a waiver from LDC 6.05.00.B.7, which requires all retention ponds and detention ponds to be designed as dry bottom ponds unless otherwise approved by city council.

A ten foot landscape buffer is provided along Rock Springs Road. The applicant has provided a detailed landscape and irrigation plan for the property. The planting materials and irrigation system design are consistent with the water-efficient landscape standards set forth in Ordinance No. 2069.

A total of 43 parking spaces are provided, of which two are handicapped parking space. Access to the subject property occurs through an existing driveway cut that is currently in place for the site. Prior to issuance of a certificate of occupancy for the building, the property owner must submit a recorded temporary driveway easement regarding the current driveway and the access driveway to the northern parcel.

The design of the building exterior meets the intent of the City's Development Design Guidelines.

The applicant is requesting a waiver from LDC 2.02.12(g)2, which requires a six (6) high masonry wall for commercial zoned property adjacent to residential areas. The applicant is requesting to provide a landscaped buffer in lieu of a masonry wall along the northern property line abutting the R-1AAA zoned property. Staff did not object to this waiver request.

The applicant is requesting a waiver from dumpster enclosure design standards that require a brick or stone wall finish. The applicant is proposing a stucco finish on the enclosure walls to match exterior of building. Staff did not object to this waiver request.

MINUTES OF THE PLANNING COMMISSION MEETING HELD ON July 8, 2014, AT 5:01 P.M.

The applicant is requesting a waiver from LDC 6.05.00.B.7, which requires all retention ponds and detention ponds to be designed as dry bottom ponds unless otherwise approved by city council. Staff did not object to this waiver request.

The applicant is requesting a waiver from section 4.2.3 of the Development Design Guidelines standards, which requires thirty (30) percent of the primary facade to be comprised of windows and doors. The thirty (30) percent requirement is not practical for this type of use. Staff did not object to this waiver request.

The Development Review Committee recommends approval of the Ladybird Academy of Apopka - Final Development Plan and waiver requests, subject to the findings of this staff report.

This item is considered quasi-judicial. The staff report and its findings are to be incorporated into and made a part of the minutes of this meeting.

In response to a question by Mr. Greene, Mr. Moon stated that the staff recommendation for the dumpster enclosure was a scrivener's error. It should read that staff does not object to the waiver request.

Chairperson Hooks opened the meeting for public hearing. With no one wishing to speak, Chairperson Hooks closed the public hearing.

Motion: Ben Dreiling made a motion to recommend approval of the Ladybird Academy of Apopka Final Development Plan; the following waiver requests: [1] LDC 2.02.12(g)2, which requires a six (6) high masonry wall for commercial zoned property adjacent to residential areas to allow a landscaped buffer in lieu of a masonry wall along the northern property line abutting the R-1AAA zoned property; [2] LDC 6.05.00.B.7, which requires all retention ponds and detention ponds to be designed as dry bottom ponds unless otherwise approved by city council; [3] waiver from section 4.2.3 of the Development Design Guidelines standards, which requires thirty (30) percent of the primary facade to be comprised of windows and doors; [4] waiver of the dumpster enclosure design standards that require a brick or stone wall finish to allow a stucco finish on the enclosure walls to match exterior of building; and [5] subject to the information and findings in the staff report. Teresa Roper seconded the motion. Aye votes were cast by Steve Hooks, Melvin Birdsong, Ben Dreiling, James Greene, Teresa Roper, and Robert Ryan (6-0).

FINAL DEVELOPMENT PLAN – VERIZON WIRELESS - APOPKA – Mr. Davoll stated this is a request to recommend approval of the Final Development Plan for Verizon Wireless – Apopka. The owner is Calmil Investment Group, LP and the applicant is Rock RDP 1, LLC. The engineering firm is Rogers Engineering, LLC, c/o Bill Menadier, P.E. The property is located at 1120 West Orange Blossom Trail (east of Lake Doe Boulevard, south of West Orange Blossom Trail). The existing use is vacant land and the proposed use is a Verizon Wireless Retail Store. The future land use is Commercial and the zoning is C-2. The tract size is 0.83 +/- acre. The proposed building size is 2,380 sq. ft. The staff report and its findings are to be incorporated into and made a part of the minutes of this meeting.

The Verizon Wireless - Apopka Final Development Plan proposes a 2,380 square foot retail store.

Stormwater run-off and drainage will be accommodated by on-site retention. The on-site stormwater management system is designed according to standards set forth in the Land Development Code

A ten foot landscape buffer is provided along Orange Blossom Trail and Lake Doe Boulevard. The applicant has provided a detailed landscape and irrigation plan for the property. The planting materials and irrigation system design are consistent with the water-efficient landscape standards set forth in Ordinance No. 2069.

MINUTES OF THE PLANNING COMMISSION MEETING HELD ON July 8, 2014, AT 5:01 P.M.

A total of 17 parking spaces are provided, of which one is reserved as a handicapped parking space. Access to the site is provided by a driveway cut along Lake Doe Boulevard and a cross-access easement agreement for future access connection to West Orange Blossom Trail.

Design of the building exterior meets the intent of the City's Development Design Guidelines.

The applicant is requesting a waiver from LDC 6.05.00.D.6.A which requires ten feet wide maintenance berm around the pond perimeter. The applicant is proposing a five feet wide maintenance berm. Staff does not object to this waiver request.

The Development Review Committee recommends approval of the Verizon Wireless – Apopka Final Development Plan and waiver request, subject to the findings of this staff report.

This item is considered quasi-judicial. The staff report and its findings are to be incorporated into and made a part of the minutes of this meeting.

Chairperson Hooks opened the meeting for public hearing. With no one wishing to speak, Chairperson Hooks closed the public hearing.

Motion: James Greene made a motion to recommend approval of the Verizon Wireless – Apopka Final Development Plan; the waiver request from LDC 6.05.00.D.6.A which requires a ten foot wide maintenance berm around the pond perimeter to allow for a five foot wide maintenance berm around the pond perimeter, for property owned by Calmil Investment Group, LP, located at 1120 West Orange Blossom Trail, and subject to the findings in the staff report. Ben Dreiling seconded the motion. Aye votes were cast by Steve Hooks, Melvin Birdsong, Ben Dreiling, James Greene, Teresa Roper, and Robert Ryan (6-0).

OLD BUSINESS:

Planning Commission: None.

Public: None.

NEW BUSINESS:

Planning Commission: None.

Public: None.

ADJOURNMENT: The meeting was adjourned at 7:12 p.m.

/s/ _____
Steve Hooks, Chairperson

/s/ _____
R. Jay Davoll, P.E.
Community Development Director